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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/389,428 09/03/99 KUHR

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RICHARD T KNAUER  
ROCHE DIAGNOSTICS CORPORATION  
9115 HAGUE ROAD BLDG D  
P O BOX 50457  
INDIANAPOLIS IN 46250-0457

EXAMINER

NGO, L

ART UNIT

PAPER NUMBER

3731

DATE MAILED:

04/04/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/389,428

Applicant(s)

KUHR ET AL.

Examiner

LIEN NGO

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- 1) ☒ Responsive to communication(s) filed on 12-19-00.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 22-25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) 26,31 and 32 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1. Applicant's election without traverse of Group I, claims 22-32, in Paper No. 8 is acknowledged.

#### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because:
  - the abstract includes two paragraph.
  - "The present invention concerns"(line 1) and "The invention in addition concerns" (line 10) should be deleted.

Correction is required. See MPEP § 608.01(b).

4. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should

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appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
  - (b) Cross-References to Related Applications.
  - (c) Statement Regarding Federally Sponsored Research or Development.
  - (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
  - (e) Background of the Invention.
    - 1. Field of the Invention.
    - 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
  - (f) Brief Summary of the Invention.
  - (g) Brief Description of the Several Views of the Drawing(s).
  - (h) Detailed Description of the Invention.
  - (i) Claim or Claims (commencing on a separate sheet).
  - (j) Abstract of the Disclosure (commencing on a separate sheet).
  - (k) Drawings.
  - (l) Sequence Listing (see 37 CFR 1.821-1.825).
5. The disclosure is objected to because of the following informalities: no section heading

and Cross-Reference to Related Applications are included in the specification..

Appropriate correction is required.

#### ***Drawings***

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the guide groove presented in the opening of the lancet magazine and a pin provided in the tip of the lancing device must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

8. Claims 22- 25, 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Nguyen et al. (5,829,589). In regard to claims 22-23 and 25, Nguyen et al. disclose, in figs 3-5, a system comprising a lancing device 1, a lancet magazine 35, a transport device 30, and an opening 21 into which the lancing device can be inserted to remove an individual lancet from the lancet magazine. The system further comprising a plurality of lancets 100. In regard to claims 24, 27-29, the lancet magazine has a round disk shape, and the transport device is a manually operated slide.

9. Claims 22-25, 27 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Braginetz (3,833,146). In regard to claims 11-23 and 25, Braginetz discloses, in fig.9, a system comprising a lancing device 11, a lancet magazine 25, a transport device 42, and an opening 22 into which the lancing device can be inserted to remove an individual lancet from the lancet magazine. The system further comprising a plurality of lancets 12a. In regard to claims 24, 27 and 30, the lancet magazine has a flat angular shape, and the transport device is driven by a spring mechanism.

*Allowable Subject Matter*

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10. Claims 26, 31 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Henry Recla, can be reached at (703)308-1382. The Group FAX number is (703) 305-3590.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-0858.

  
Lien Ngo

April 1, 2001



Henry J. Recla  
Supervisory Patent Examiner  
Group 3700